



2026:CGHC:20792

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WP227 No. 51 of 2025**

Ramkumar Mahobiya S/o Late Lakhan Lal Mahobia Aged About 74 Years At Present R/o Barai Para, Durg (C.G.), At Present- Baijnathpara, Durg, Tahsil And District- Durg (C.G.)

... Petitioner(s)**versus**

1 - Heeralal Mahobia S/o Late Lakhan Lal Mahobia Aged About 66 Years Permanent Address- Baraipara, Durg District (C.G.) At Present R/o Jatkanhar, Post- Jatkanhar, Tahsil- Dongargarh District- Rajnandgaon (C.G.)

2 - Shankar Lal Mahobia S/o Late Lakhan Lal Mahobia Aged About 60 Years Permanent Address- Baraipara, Durg District Durg (C.G.)

3 - Krishna Kumar Mahobia @ Munna Mahobia S/o Late Lakhan Lal Mahobia Aged About 58 Years Polsaipara, Beside Mahobia Farsi Center, Tahsil And District- Durg (C.G.)

4 - Smt. Uma Devi Mahobia D/o Late Lakhan Lal Mahobia Aged About 41 Years R/o Kashyap Colony, Bilaspur, Tahsil And District- Bilaspur (C.G.)

5 - The State Of Chhattisgarh Through The Collector, Durg, District- Durg (C.G.)

... Respondent(s)

For Petitioner(s)	: Mr. Rishikant Mahobia, Advocate
For State/ Respondent No. 5	: Ms. Richa Sahu, Panel Lawyer
For Respondent No. 1 to 4	: None, though served

Hon'ble Shri Justice Ravindra Kumar Agrawal**Order on Board****04/05/2026**

1. In the present writ petition, the petitioner has challenged the order dated 28.10.2024 passed by learned 1st District Judge, Durg in Execution Case No. 106/2022 whereby the execution application filed by the petitioner has been dismissed.
2. Learned counsel appearing for the petitioner would submit that the petitioner is a decree holder in whose favour a judgment and decree for partition and separate possession has been passed on 28.03.2018 with respect to the suit property situated at Nazul-sheet No. 45, Plot No. 107/2, situated at Baraipara, Durg, and the agricultural land of Khasra No. 1013/77, 1153/2 and 1159/2, situated at Durg and also the diverted land of Khsra No. 1112/3, 1113/3, 1114/7 and 1114/8 situated at Polsaipara, Durg. With respect to the house situated at Baraipara, Durg, the decree was executed by the Executing Court vide order dated 22.10.2019 passed by learned 1st Addl. Judge, to the Court of 1st Addl. District Judge, Durg, in Case No. 172/2018 whereas the other part of the decree is still not satisfied and no order has been passed. He would also submit that in the earlier execution proceeding, though the decree holder had claimed partition of the entire property but only part of the property i.e. the suit house was being considered and the remaining part of the suit property has not been considered. However, the execution application has been disposed of by the learned Executing Court on 22.10.2019, saying that the decree has been satisfied. He would also submit that against the order dated 22.10.2019, the petitioner filed a review petition before the learned

Executing Court on 16.11.2022 but the review petition has also been dismissed by the learned Executing Court, thereafter, the petitioner has filed a subsequent application for execution of the decree with respect to the remaining claims which has been dismissed by the learned trial Court on the ground that the earlier execution application has already been disposed of on the satisfaction of the petitioner and therefore, there is no proceeding remains for its satisfaction of the decree. He would further submit that despite a decree in favour of the petitioner, the execution application has been dismissed. The petitioner has filed the execution application within time therefore, the same ought to have been allowed by the learned Executing Court and dismissal of the execution application amounts to deprive the legal rights of the petitioner. Therefore, the impugned order may be set aside and the decree may be executed with respect to unexecuted part of the decree.

3. I have heard learned counsel for the petitioner and perused the material annexed with the petition.
4. From perusal of the order sheet dated 28.10.2024 passed by learned Executing Court, it transpires that the learned Executing Court has dismissed the execution application on the ground that earlier another execution application of the petition for execution of decree has been disposed of on the satisfaction of the decree. It transpires from the record that earlier the petitioner had filed an execution application for execution of the decree dated 28.03.2018 which has been disposed of on 22.10.2019 after complete satisfaction of the petitioner as has been observed in the order dated 22.10.2019 which has been annexed at page no. 43 of the petition. It is the submission of the petitioner himself

that against the order dated 22.10.2019 he filed a review petition claiming that some part of the decree has not been satisfied and it is still enforce for remaining part of the property as shown in the decree. However, the said review application has also been dismissed and the petitioner has not challenged either the order sheet dated 22.10.2019 or the order passed in his review petition. The said execution application has been dismissed in the year 2019 itself and thereafter, the petitioner has filed another execution application on 17.11.2022 for execution of the decree with respect to the remaining part of the suit property.

5. Admittedly, the petitioner has not challenged the order dated 22.10.2019 whereby the execution application has been disposed of on complete satisfaction of the petition. Though, he has challenged the order dated 22.10.2019 by filing the review petition but after rejection of review petition, he has not challenged the same in any other higher forum and when the learned Executing Court has considered that the decree has been executed in full satisfaction of the petitioner and the said order has not been challenged in any higher forum by the petitioner, he cannot again file the subsequent application for execution of the decree when an order has been passed by Executing court, the decree has already been satisfied.
6. The learned trial Court in the present application has considered the same fact that the decree has already been executed in full satisfaction of the petitioner and therefore, there is no proceeding remains for its execution and has dismissed the execution application.

7. Under the facts and circumstances of the case, this Court does not find any perversity or illegality. In absence of any challenge the order dated 22.10.2019, the petitioner cannot reagited the execution of the decree by saying that some part of the decree is remain to be executed.
8. Accordingly, the present writ petition fails and is hereby dismissed.

Sd/-
(Ravindra Kumar Agrawal)
Judge

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